

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

SERGIO HUGO HERNANDEZ,

Petitioner,

v.

GARRETT, *et al.*,

Respondents.

Case No. 3:21-cv-00429-MMD-WGC

ORDER

Petitioner Sergio Hernandez has submitted a *pro se* habeas corpus petition on the Court's 28 U.S.C. § 2254 form. (ECF No. 1-1.) Hernandez's application to proceed *in forma pauperis* is granted. (ECF No. 1.)

However, Hernandez indicates in his petition that he seeks to challenge his federal criminal conviction in Case No. 2:07-cr-00110-RLH-GWF-1. To challenge a federal criminal conviction, Hernandez must file a § 2255 motion to vacate, set aside or correct that sentence. A § 2255 motion is to be filed in the underlying federal criminal case itself. As such, this action is dismissed for failure to state a claim for which relief may be granted.

It is therefore ordered that Petitioner Sergio Hernandez's application to proceed *in forma pauperis* (ECF No. 1) is granted.


The Clerk of Court is directed to detach and file Hernandez's petition (ECF No. 1-1).

It is further ordered that Hernandez's petition is dismissed.

It is further ordered that Hernandez is denied a certificate of appealability.

The Clerk of Court is directed to enter judgment accordingly and close this case.

DATED THIS 20<sup>th</sup> Day of October 2021.

  
MIRANDA M. DU  
CHIEF UNITED STATES DISTRICT JUDGE